13.08.2026
ct no. 10
Sl. 01
AGM

WPA 248 of 2025

Ravi Prakash Singh
-Versus-
Commissioner, Commercial Tax & Ors.

Mr. Debasish Ghosh.
Mr. Lalit Baid.
Mr. Satyaki Mukherjee.
Ms. Sanjana Shaw,
Mr. Kuldip Das.
... for the petitioner.

Mr. Vipul Kundolia.
Mr. Sudipta Ghosh.
Mr. Bijitesh Mukherjee.
Ms. Manasi Mukherjee.
... for the State.

1. The Writ Petition has been filed challenging inter alia, the seizure of cash of Rs. 13,04,000/- made on 01.12.2023 by Officers of the respondent authorities in exercise of power under Section 67 (2) of the West Bengal Goods and Services Tax Act, 2017 (hereinafter referred to as the WBGST Act).

2. The core issue before this Court is whether cash can be seized by the proper officer in exercise of power under Section 67(2) of the WBGST Act and whether the Order dated 29.06.2026 is sustainable.

3. Pursuant to an order dated 09.06.2026 this court directed the respondent No. 3 to consider the petitioner's representation dated 29.06.2026 and pass a reasoned order. In compliance, a reasoned order dated 29.06.2026 was passed by an Officer below the rank of respondent No. 3 upholding the seizure.

4. The Learned Counsel appearing for the petitioner submits that “money” and “currency” are specifically excluded from the definition of “Goods” under Section 2(52) of the WBGST Act. Therefore, cash cannot be seized in exercise of power under Section 67(2) of the said Act.

5. It is submitted that the Section 67 is meant only for detection of tax evasion and not for recovery of tax dues. The power of seizure cannot be used as a tool for recovery.

6. It is further submitted that the Order dated 29.06.2026 is in violation of the direction of this Court dated 09.06.2026 as the jurisdictional question of whether seized cash constitutes “stock in trade” was not decided. The order has been passed by an officer below the rank of respondent No. 3.

7. The Learned Counsel appearing for the petitioner places reliance upon the following judgments:

a. **Deepak Khandelwal v. Commissioner of Central GST, 2023 SCC Online Del 4958** (DB)– Paragraph 40, 46 and 47.

"40. It is clear from the schematic reading of Section 67 as well as other provisions of the Act that the purpose of Section 67 of the Act is not recovery of tax; it is not a machinery provision for enforcing a liability. The purpose of Section 67 of the Act is to empower authorities to unearth tax evasion and ensure that taxable supplies are brought to tax. In respect of goods and supplies, which are subject-matter of evasion, the proper officer has the power to seize the goods to ensure that taxes are paid. Once the department is secured in this regard either by discharge of such liability or by such security or bond as the authority concerned deems fit the goods are required to be released in terms of sub-section (6) of Section 67 of the Act.

46. It is clear from the scheme of Section 67 of the Act that the word "things" is required to be read, ejusdem generis, with the preceding words "documents" and "books". It is apparent that the legislative intent of using a wide term such as "things" is to include all material that may be informative or contain information, which may be useful for or relevant to any proceedings under the Act. Although, documents and books are used to store information; they *are not the only mode for storing information. There are several other devices that are used to store information or records such as pen drives, personal computers, hard disks, mobiles, communication devices, etc. The word "thing" would cover all such devices and material that may be useful or relevant for proceedings under the Act. The word "things" must take colour from the preceding words, "documents" and "books". It denotes items that contain information or records, which the proper officer has reason to believe is useful for or relevant to the proceedings under the Act. The context in which the word "things" is used makes it amply relevant information, records, and material which may be useful for or relevant to proceedings under the Act.*

47. We are unable to accept that the word "things" must be read expansively to induce any and everything notwithstanding that the same may not yield and/or provide any material useful or relevant to any proceedings under the Act as contended on behalf of the Revenue. It is necessary to bear in mind that power of search and seizure is a drastic power; it is invasive of the rights of a taxpayer and his private space. Conferring of unguided or *unbridled power of this nature would fall foul of the constitutional guarantees. It necessarily follows that such power must be read as circumscribed by the guidelines that qualify the exercise of such power, and the intended purpose for which it has been granted. As stated above, it is contextually clear that exercise of such power is restricted only in cases where in the opinion of the proper officer, seizure is useful for or relevant to any proceedings under the Act. The second proviso of sub-sections (2) and (3) of Section 67 of the Act makes it amply clear that the purpose seizure is for the purpose of relying on the same in proceedings under the Act.*

b. **Commissioner of Central GST v. Deepak Khandelwal,** Order dated 14.08.2024 in SLP (C) Diary NO.21886/2024. – Paragraph 2.

“Upon hearing the counsel the court made the following Delay condoned.

No case for interference is made out in exercise of our jurisdiction under Article 136 of the Constitution of India.

The Special leave petitions are, accordingly, dismissed.

Pending applications(s), if any, shall stand disposed of.”

c. Unreported Judgment passed by Hon'ble Justice Harish Tandon in **WP No. 7721 (W) of 2009 (Arun Kumar Hazra Versus the State of West Bengal & Ors.)**

8. It is submitted that bulk cash is neither "a fact in issue" nor "a relevant fact" and hence cannot be retained as evidence. The denomination of the seized cash was not even recorded.

9. The Learned Counsel for the State respondent submits that this Court vide order dated 09.06.2026 only directed consideration of the representation and did not restrict the nature of the order to be passed. The reasoned order dated 29.06.2026 has been passed in compliance.

10. Section 67(2) of the said Act empowers the proper officer to seize "thing" which are "useful or relevant" to any proceedings under the Act. Cash has been seized as a "things" and not as "goods".

11. The Learned Counsel appearing for the state respondents places reliance upon a judgment, Smt Kaniska Matta Vs. Union of India reported in 2020 SCC Online MP 4564 wherein the Hon'ble Madhya Pradesh High Court has held that cash can be seized as "thing" under Section 67(2) of the said Act.

12. It is submitted that the cash was not seized for recovery or as an unaccounted wealth. It was seized as it is 'material evidence' in proceedings under Section 74 and Section 132 of the said Act relating to fake GST Invoice racket and round tripping of funds by the petitioner.

13. It is submitted that Deepak Khandelwal (supra) has mis-read Kaniska Matta (supra). The issue of conflict between these two judgements is pending before the Hon'ble Supreme Court in SLP (C) Diary No. 44061/2024, where notice has been issued but no stay has been granted.

14. It is further submitted that challenge to the order dated 29.06.2026 gives rise to a fresh cause of action and cannot be entertained in the present Writ Petition.

15. This Court has carefully considered the rival submissions of the parties upon perusing the materials on record.

16. The petitioner's contention is that cash "is excluded" from "goods" under Section 2 (52) and therefore cannot be seized under Section 67(2). The State's contention is that cash was seized as a "thing" and not as "goods" being relevant evidence for proceedings under Section 74 and 132 of the said Act.

17. There is a clear divergence of judicial opinion on this point. The Hon'ble Delhi High Court, in Deepak Khandelwal, held that cash cannot be seized as 'things', whereas the Hon'ble Madhya Pradesh High Court in Kaniska Matta, held to the contrary. The Hon'ble Supreme Court is seized of the issue in SLP Diary No. 44061/2024. In the absence of a binding precedent from the Apex Court, this Court is not inclined to finally decide the jurisdictional question at this stage.

18. This Court vide Order dated 09.06.2026 specifically directed respondent No. 3 to consider and pass a reasoned order. However, the order dated 29.06.2026 has been passed by an Officer below the rank of the respondent no. 3. This is a clear non-compliance and willful disobedience with the directions of this Court. Further the said Order fails to specifically deal with the crucial question of jurisdiction i.e. cash can be seized as thing under section 67(2) and whether it constitutes stock in trade.

19. The reasoned Order dated 29.06.2026 records that the cash was seized on the ground that it formed an integral part of a fake invoice racket and was utilized for 'round tripping'. If that be so, then the seizure was effected not for recovery of tax dues but for the purpose of evidentiary value. However, no finding has been recorded by the competent authority on whether such cash can be retained indefinitely without following due process of law. Such power must be exercised with circumspection and recorded reasons.

20. The Writ Petition is disposed of with the following directions :-

The impugned order dated 29.06.2026 is quashed and set aside on the ground of non-compliance with the directions of this Court dated 09.06.2026 and for failure to decide the jurisdictional question by the competent authority.

This Court refrains from deciding the larger question of whether cash can be seized under Section 67(2) at this stage in view of the pending decision of the Hon'ble Apex Court.

In view of the above, the matter has been remanded to respondent No. 3 to pass a fresh reasoned order in accordance with law within 4 weeks from the date of the communication of this order.

The respondent No. 3 shall specifically decide;

i.) Whether cash seized on 01.12.2023 falls within the meaning of "things" under section 67(2) of the WBGST Act, and constitutes "Stock in trade".

ii.) Whether the said cash was used as an instrumentality of offence in the alleged fake invoice racket, iii.) The petitioner is at liberty to file a supplementary representation before the respondent no. 3 within one week.

iv.) Till a fresh order is passed by the respondent no. 3, the respondents are restrained from appropriating or utilizing the seized cash. The respondents shall prepare a detail inventory of the denomination of the seized cash and keep it in a Government Treasury / SDR Account.

v.) The petitioner shall be granted a personal hearing by respondent No. 3 before passing the fresh order.

(Smita Das De, J.)